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FISCAL IMPACT REPORT

ORIGINAL DATE 1/21/06

SPONSOR García, M.J. LAST UPDATED _____ HB _____

SHORT TITLE Death Penalty Case Contract Attorney Rates SB 82

ANALYST Medina

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	\$800.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Appropriation in the General Appropriation Act
 Duplicates House Bill 18

SOURCES OF INFORMATION

LFC Files
 Public Defender Department (PDD)

Responses Not Received From
 General Services Department (GSD)

SUMMARY

Synopsis of Bill

Senate Bill 82 appropriates \$800.0 from the general fund to the Public Defender Department (PDD) for the purpose of increasing the rate at which attorneys that enter into contracts with the department for the representation of defendants in death penalty cases. The bill also proposes that the attorney fee rates for contract public defenders in death penalty cases be based on the attorney fee schedule set by the Risk Management Division of the General Services Department.

FISCAL IMPLICATIONS

The appropriation of \$800.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2007 shall revert to the general fund.

SIGNIFICANT ISSUES

The PDD flat fee for first chair contract attorneys representing indigent clients in death penalty cases is \$11.5, with an additional \$5.0 upon notice of the death penalty and another \$8.5 when the case goes to trial, for a maximum of \$24.5. For second chair contract attorneys, the maximum fee is \$12.5.

DUPLICATION

This bill duplicates recommendations for the General Appropriation Act from the LFC's and the Executive for PDD. The Executive appropriation recommendation of \$10 million in the contractual services category includes \$9.8 million to provide for contract attorney fees. The LFC recommends \$11 million for contractual services, including \$10.7 million for contract attorney fees. In FY05, PDD expended \$8.6 million in contract attorney fees and in FY06 the department is budgeted to expend \$9.6 million.

This bill also duplicates House Bill 18.

OTHER SUBSTANTIVE ISSUES

The General Appropriation Act of 2005 appropriated \$300.0 to PDD to provide for a fee structure for contracting representation of defendants in death penalty cases. PDD has requested that the period of time for expending this \$300.0 appropriation and a 2004 appropriation of \$870.0 for the Santa Rosa prison riot defense be extended through FY07.

DXM/yr